QUID NOVI

Journal des étudiant-e-s en droit de l'université Mc Gill

McGill Law's Weekly Student Newspaper

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QUID NOVI

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WHAT'S INSIDE?
QUEL EST LE CONTENU?

WANT TO TALK?
TU VEUX T'EXPRIMER?

Envoyez vos commentaires ou articles avant jeudi 17h à l'adresse : quid.law@mcgill.ca

Toute contribution doit indiquer le nom de l'auteur, son année d'étude ainsi qu'un titre pour l'article. L'article ne sera publiée qu'à la discrétion du comité de rédaction, qui basera sa décision sur la politique de rédaction.

Contributions should preferably be submitted as a **.doc** attachment (and not, for instance, a ".docx.").

Co-Editor-in-Chief

THOMAS GAGNON-VAN LEEUWEN

IT'S STILL SUNNY IN PALO ALTO

THOUGHTS ON THE PASSING OF STEVE JOBS

August 22, 2011. I step off the train onto a platform lined with cypress trees on either side. Shielding my eyes from the sun — it's a glorious day, a godsend after the nasty San Francisco fog — I look up at large Art Deco lettering that announces: PALO ALTO.

Palo Alto lies at the heart of Silicon Valley. Healthy food, progressive politics and top-tier academics come together to create the quintessential Northern California town. On one side of the train tracks, the Stanford University campus is home to some of the finest minds in academia. On the other, small shops and cafés line the clean avenues that make up downtown.

And somewhere beyond, not too far, is Steve Jobs' home. I jokingly tell my "tour guides" — we met at a concert in San Francisco a few days before and they offered to show me around their hometown — that I want to go visit Steve. They smile; they know where his house is. "There's not much there," they tell me, "though it's one of the best at Halloween."

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Two days after my trip to Palo Alto, Jobs stepped down from his position as CEO of Apple. Inevitable as it was, after two medical leaves in as many years, the resignation sent shockwaves through the tech community.

As you know, he passed away a mere six weeks later. One day Apple's homepage proudly showed off the new iPhone and companion products, the next it displayed a larger-than-life photograph of its co-founder, a simple but effective message in typical minimalist Apple fashion.

Online, the news spread like wildfire. Facebook and Twitter became the land of "RIP Steve Jobs" and the like. Tech journalists and enthusiasts shared their memories in heartfelt eulogies. (It's fitting that most learned of and reacted to his death using devices he helped create.) Within an hour, fans left handwritten notes, candles and flowers in front of Apple's flagship San Francisco store. The rest of the world followed, as evidenced by the taped notes and photographs that still decorate today the glass storefront of our very own Ste-Catherine Street Apple Store.

But why?

The adulation has its fair share of backlash, some would argue justifiable. A friend mused, "No one would do this for *Dell*'s CEO!" True. Another proclaimed: "The fact that people are expressing their condolences at the death of Steve Jobs is less a statement on their feelings, void as they may be, than the success of Apple's marketing style." Quotable. Some took it all the way by juxtaposing photos of Jobs and dying children in Africa, with the tagline "1 person dies and our world is stunned. 1 million die and no one gives a shit." Really profound commentary right there.

Sarcasm aside, I have to admit I too was somewhat uncomfortable with the more extreme aspects of quasi-religious idolization that followed the news. Call me old-fashioned, but I feel like flowers and candles belong on the steps of churches, not retail stores. The iconography is also interesting: photos of Jobs that accompany articles following his death are often Christ-like. Taken from below, they make Steve dominate the audience, bigger than life, the glowing Apple logo behind his head reminiscent of a religious halo. Of course, this is a natural result of the fact Jobs most often appeared publicly to deliver his trademark keynote presentations, during which — wait for it — he stood on a stage under an illuminated Apple logo. Still, the comparisons are striking.

However, I think it's too easy to dismiss the frenzy that surrounded Steve Jobs' passing as merely irrational or ridiculous. The cynics would have you think this is the result of a multimillion-dollar marketing budget that manipulated the mainstream media and turned ordinary folk into brainwashed zealots. True, a Mac is "just a computer"; an iPhone is "just a phone"; Steve Jobs is "just a CEO". And yet, surely *some* of the reaction is understandable.

Part of the explanation lies in Steve Jobs' quasi-mythological life story: the rejected son adopted by working-class parents; the rebel college dropout founding a tech company in his family garage; the dramatic firing from and subsequent triumphant return to Apple; and finally, the struggle with cancer. (For the extended version, Jobs' official biography is out next Monday. Preorders are through the roof.) It doesn't get much more *American dream* than this. Not that this is a bad thing — Jobs' story is truly inspirational.

(continued on page 25)

SAO and MUNACA Member

THOMAS CHALMERS

AN OPEN LETTER TO THE DEAN OF THE FACULTY OF LAW

FROM A MEMBER OF THE LAW'S SUPPORT STAFF CURRENTLY ON STRIKE

For your consideration:

The injunction against MUNACA has limited our freedom of expression. The statements from Vice-Principal Di Grappa to students regarding their right to assemble; M's told not to speak to MUNACA members; wearing a MUNACA button resulting in being barred from a Job Fair, and the questionable relationship of the judge issuing the injunction to McGill, are events which all cry out for a response.

Dean Jutras, you are well respected by all. The Faculty's Support Staff are not at their posts. I believe they are worthy of your respect and deserve your support. Therefore, I respectfully request that you comment.

Sincerely,
TC

Dean

DANIEL JUTRAS

REPLY TO THOMAS CHALMERS

Dear Thomas,

First of all, let me say how much we miss those members of the Law Faculty community who are currently on strike. Whatever the merits of positions on either side of this labour dispute, we remain colleagues and friends, and your absence leaves an undeniable void. I sincerely hope MUNACA and McGill can find a prompt resolution to this dispute.

Your letter invites me to react to a number of things, and I confess I have no personal knowledge of some of the issues and events you mention. Let me focus on the matters that I do know, and on which I can speak in my own name as a jurist (and not, I should make clear, as Dean of Law): the injunction, and the position of the judge who made the initial order.

Injunctions such as the one that was issued by the Superior Court in the present situation are not an uncommon feature of labour disputes. Picketing is an essential form of collective action within labour relations. Striking employees have a fundamental right to free expression. But that right is not unfettered. It is constrained (within reasonable limits, as determined by a judge) by legitimate public purposes, and by the rights of others, including McGill's right to maintain free access to its premises for students, professors, non-striking employees, suppliers and visitors who choose to cross picket lines. The Court assessed the facts as presented by the parties, and what it ordered here, in balancing the rights of both parties, is consistent with established jurisprudence. In Canadian law, there is nothing unusual about the judicial imposition of such a framework for the exercise of free speech through picketing.

It is my understanding that the judge who rendered the initial order holds McGill degrees, and was an occasional course lecturer several years ago. The legal standard, in this context, is whether those links create a reasonable apprehension of bias in the minds of informed and reasonable observers. In my view, this connection is too old and too tenuous to sustain a claim of bias in this instance. The injunction has now been renewed by another, different judge.

I have seen and spoken to members of MUNACA on the picket line over the past few weeks. Indeed, you and I had a chat on Peel Street just a few days ago. I was not told by anyone that these conversations were inappropriate, and I intend to continue to treat with courtesy and respect the striking employees who are my colleagues and friends. I was happy to hear, this morning, that the parties are before the conciliator again, after a long hiatus, and I remain confident that a fair settlement will be reached.

See you soon in Chancellor Day Hall

Daniel Jutras
Dean of Law

BRETT HODGINS

Law IV

HYPERBOLIC LANGUAGE IS OPPRESSING ME

In an article in last week's *Quid* ("What is a university? Some thoughts on the injunction"), Ruth Ainsworth argued that the recent injunction issued by the Superior Court of Quebec relating to the MUNACA strike represents a "dramatic curtailment of the free expression and assembly of MUNACA workers", and that the union members' rights were being "trumped" by the inconveniences of the university.

I believe that this kind of language is not at all uncommon today, but that it is a variety of hyperbole which is misleading and which does a disservice to our public discourse. With my apologies for repeating earlier published material, the relevant portions of the injunction read as follows:

> TO CEASE AND ABSTAIN from impeding, obstructing, or inhibiting the free circulation of pedestrian of vehicular traffic within four (4) meters of the entries and exits [...]
> TO CEASE AND ABSTAIN from assembling in a group of more than fifteen (15) persons within four (4) meters of the entries and exists [...]
> TO CEASE AND ABSTAIN from using a microphone, speaker, loudspeaker, stereo, or any other tool or machine used for the purpose of amplifying voice or sound within twenty-five (25) meters [of McGill property]

I would argue that the first two of the above provisions are explicitly designed to ensure that students and staff can access the university during the strike. They are limited in scope, and have a minimal impact on the ability of MUNACA members to picket and express themselves publicly. The third provision is intended to prevent classes and the ordinary functions of the university from being hindered by intentionally disruptive levels of noise. Limiting picketers to non-disruptive noise levels is not tantamount to silencing them, and has a minimal impact on MUNACA's right to freedom of expression. Although classes may seem like nothing more than "the raw production of knowledge" to some, McGill students have the right to an education without disruption. As our own Thomas Chalmers said so well in another *Quid* article last week ("Hello from the picket lines"): "we would ask you not to put your education in jeopardy; no union in good conscience would ask you to miss classes."

The university has distributed emails in which they claim that valuable research materials were being needlessly lost due to delays caused by MUNACA picketers, and that pedestrians were being forced onto the roads, endangering their safety. Ms. Ainsworth recommends that we "read [such emails] with a grain of salt," and that she "remains[s] skeptical as to their truth value." To dispense with this creative euphemism, Ms. Ainsworth is accusing the university of lying. If there were evidence that the administration was indeed lying to its students, I would be very interested in hearing it, as this would be an extremely serious offence. However, to accuse McGill of lying to students without evidence is, in my mind, an irresponsible and needlessly inflammatory action, which detracts from constructive dialogue.

Ms. Ainsworth characterises MUNACA as a "voiceless and invisible community." I'm skeptical as to the truth value of this assertion. I would characterise MUNACA as a body of highly-skilled, well-educated members with a sophisticated and effective organisation, and a leadership which represents their interests extremely well. Universities – and particularly law schools – are full of young intelligent people who rightly seek to stand up for the downtrodden in our society. The problem is, while we are students, our power to do so is limited in a way that's entirely inconsistent with our level of enthusiasm. As a result, students are overeager to seize upon anything remotely reminiscent of "oppression." But is the MUNACA strike really an example of "The Man" (confusingly played by Principal Heather Monroe-Blum) up to his old oppressive tricks?

There are groups in our society who truly are voiceless, invisible, and powerless. They aren't members of a union like MUNACA. They are immigrant farm labourers and domestic servants, illiterate day workers and mentally ill homeless persons. According to the previous MUNACA collective agreement (Appendix 8), in 2010 the low end of the salary range for the lowest-level 35 hrs/week MUNACA member was $29,594. In 2010 the median income of all Canadian individuals was $28,840 (Statistics Canada). In other words, virtually all MUNACA members earn an above-average wage – often significantly so. Furthermore, only 31.6% of Canadians workers are unionised at all, and only 40.6% have any kind of supplemental health benefits (Statistics Canada). To be clear: the majority of Canadians are non-unionised workers without benefits.

All this is not to say that MUNACA's demands are or aren't reasonable and appropriate. Regardless of the plight of the average Canadian worker, MUNACA members have the right to push zealously for their interests when bargaining with their employer. My point is that characterising MUNACA as an oppressed and powerless underclass struggling for their basic rights is hyperbole. Characterising an injunction which stops MUNACA from obstructing access to the university and disrupting classes as an egregious violation of free speech is hyperbole. This kind of hyperbole is ubiquitous among students, but it needn't be. It detracts from rational, intelligent discourse, and does harm to the kind of atmosphere of respectful dialogue which leads to reasonable compromises.

DAVID GROVES

THE OPTIMIST

SENATE REFORM: HARPER'S PIECEMEAL APPROACH

Growing up in Alberta, I heard a lot about Senate reform. Not as much as I heard about oil and cowboys hats, but probably more than the average Canadian did. Ever since the 1970s and Trudeau's hated National Energy Program, Albertans have seen the demands of the federal government as onerous and undemocratic, and have sought ways to defend their regional interests through democratic reform. The Senate, and its status as an unelected source of legislative power, has drawn particular ire. As a result, Albertans have been consistent and vocal devotees of a "Triple E Senate" (Equal, Elected, and Effective); the only person I knew as a teenager who didn't support it was my mother, and she's from Ontario. From its base in Alberta, reforming the Senate became a central tenet of Conservative policy in the last two decades, and now that Stephen Harper's party has their long sought-after majority, they've begun the process of implementing it.*

Now, being generally of the belief that the Prime Minister's Office just has too much power already, Triple E Senate reform, or some variant, strikes me as a perfectly reasonable idea. It would strip the right to nominate senators away from the Prime Minister (well, technically, away from the Governor-General, who is advised on who to nominate by the PM) and put them up for election. It would also rebalance regional quotas on senators to be more reflective of the actual demographics of the country. As it is currently laid out in the constitution, one Albertan senator represents 620,830 people; one Nova Scotian senator represents 95,000. Considering we don't even get to choose who these people are, it seems like everyone's getting a raw deal.

The problem is, substantial Senate reform requires substantial constitutional reform, and substantial constitutional reform entails substantial risk. One need only look at how Harper's forerunner, Brian Mulroney, fared during his constitutional battles. The immense task of passing various provincial, federal, and electoral hurdles nearly destroyed the Mulroney's Progressive Conservatives, rekindled regional grievances across Canada, and, in the end, the reforms didn't even pass. With that lesson in mind, Harper has chosen a more cautious approach, one that tries to avoid the awkward topic of constitutional reform altogether.

The Senate Reform Act, currently wending its way through Parliament, offers a voluntary framework for the provinces to vote for their Senate nominees, similar to legislation (The Alberta Senatorial Selection Act) currently in effect in Alberta. These nominations would be given to the Prime Minister, who would then consider them in offering his own nominations to the Governor-General. Additionally, while current senators can stay in office until they're 75, new senators would be limited to one nine-year term. By not making the nomination process binding on the Prime Minister's decision, and not addressing the question of regional apportionment whatsoever, the bill avoids fundamentally altering the constitutional structure of the government. It's a piecemeal solution to a complex issue limited in scope by political timidity – what could possibly go wrong?

Short of ignoring the unequal apportionment of Senators by province, the bill is riddled with problems. For one, it is assumed that the Senate will become more powerful and more legislatively active as it is democratized. How it will stack relative to the House of Commons is unclear. Unlike the United States, Canada has no mechanism to resolve disputes between our two houses. If you think the chaos of the American Congress is bad, Harper's reform would basically take all of that inter-legislative insanity and subtract the well-established procedures of harmonization that hold it together.

Nor do we know what role a newly democratic Senate would play. Does it remain the chamber of sober second thought? Does it become a major new source of legislation? Is it a check on the House of Commons? Would it offer a regional balance to federal power? How? The bill doesn't say. With such ambiguity, it's hard to see how the Senate Reform Act does anything but muddy the waters of legislative authority in a dangerous way.

Stéphane Dion, speaking in the House of Commons, pointed out another major flaw in the bill: "Funding for these federal elections would come from the provinces, and even though they would be federal elections, the federal parties would be excluded from the electoral process." In other words, the provincial governments, and by extension the provincial parties, would be in charge of these federal elections. Provincial parties are distinct from their federal counterparts: in some cases, they are totally unrelated. So how would this selection process work? Once again, the bill doesn't say. Dion summarized the Senate Reform Act as "the antithesis of common sense", and a demonstration of "a lack of understanding of what Canadian federalism is.". It's hard to disagree. These are exactly the kinds of problems that will invite, rather than avoid, a brutal constitutional battle. If we're going to do this, and we should, we need a comprehensive effort for constitutional reform. Better Canadians go into Senate reform with clear eyes than stumble into it over a poorly thought -out half-remedy.

* Of course, not before appointing a Conservative majority to the Senate. Harper is nothing if not baldly pragmatic.

Law III

MICHAEL SHORTT

NOT ROCKET SURGERY

A SIMPLE METAPHOR FOR QUESTIONS OF LAW, QUESTIONS OF FACT, AND THE DREADED "STANDARD OF REVIEW"

Imagine an amusement park rollercoaster. The park requires that everyone who rides the rollercoaster be at least 5 feet tall (this is a question of law – what is the rule for minimum height?). A staff member in charge of the ride measures the height of everyone who wants to ride the rollercoaster (this is a factual question – how high is a given person?). The staff member then determines whether the person has exceeded the minimum height (this is a mixed question of law and fact, since the law is being applied to a particular set of facts).

If a staff member mis-measured someone's height, perhaps by accidentally bunching up the tape -measure, this would be an error of fact. Real-life factual questions include the credibility of witnesses, whether a given event happened or not, etc. In Canada, the standard of review is that of the palpable and overriding error – as long as the trial judge has reasonable grounds for his decision, it cannot be overturned.

If the staff member used the wrong height standard (say, 4 feet, which is the requirement for the amusement park's merry-go-round) this would be a clear error of law. Real-life legal questions include whether a contractual clause is against public policy, whether a type of damage is recoverable, etc. In Canada, the standard of review is correctness.

The staff member's decision to admit someone is a mixed question of law and fact. So an error here could involve either legal errors (wrong height requirement), factual errors (mis-measurement) or both. The classic example of a mixed question is causality in ECO/torts. After some controversy, Canadian courts have decided that mixed questions of law and fact should be reviewed as if they were factual questions.

One important exception to this standard of review for mixed questions exists: that of the "extricable error of law." An extricable error of law is one which can be treated distinctly from the factual questions involved. Continuing our amusement park example, applying the wrong height requirement would be an extricable legal error in the overall mixed question of who can ride the rollercoaster. A real world example of an extricable error would be applying the wrong test for causality at common law (i.e. using the "but-for" test when the correct test was the "material contribution test"). Hence the legal error can be seen independently of the conclusion the judge reaches from applying the test to the facts.

Not all errors of law are "extricable", however. Most of the time, the legal standard is so wrapped up in the facts that you can't separate the legal question from the factual question. If a judge finds fault but you disagree, it is very difficult to show that his finding results from an overly loose interpretation of 1457, rather than a correct interpretation of 1457, but with a certain appreciation of the evidence.

Law I

LUDOVIC BOURDAGES

AVERTISSEMENTS

L'amour crée une dépendance
l'amour peut nuire à votre entourage
l'amour peut nuire à votre santé
l'amour peut vous rendre aveugle
l'amour peut vous rendre impuissant
l'amour peut rendre votre cœur malade
l'amour est comme une cigarette
une fois allumé
ce n'est qu'une question de temps
avant qu'il s'éteigne.

Law I

HUGO B. LAFRENIÈRE

CHANSON

Sur le toit des jeunes poètes,
On discute de vers en verres,
D'éphémères flammes qui reflètent,
Des rêves d'idylles impubères,

On a enfanté la mort,
Des bureaucrates réalistes,
Et chaque jour on déshonore,
Leurs pères les prêtres machistes.

Mais comment va donc la vie,
Pour ces traîtres de toute morale?
Les mains sans cesse vides d'outils,
Et d'égoïsme machinal.

Et elle se porte comme toujours,
N'ayant cure des états d'âmes,
Des prophètes d'immense amour,
Ou des lâches les plus infâmes

YOU bring your experiences... NOUS apportons les collations ! Toutes et tous sont bienvenus à...

WOMEN AND THE LAW: PRAXIS (THÉORIE + PRATIQUE)

Why is feminism important to (teaching, learning, and living) the law? Penser féministe
C'est quoi, la différence d'être femme? One woman's journey as mother/Aboriginal law practitioner

Le mercredi 19 octobre, 13h30-14h30, lieu à déterminer (Faculté de droit de McGill)
(check the blackboards outside of Room 101/102)

La professeure **Vrinda Narain** enseigne le droit constitutionnel et le droit de l'égalité ici à McGill.
Kate M. Blomfield practices Aboriginal law in Vancouver.
Amanda Gibeault (2L) est titulaire d'un doctorat en philosophie féministe.
Members of the McGill Law Women's Caucus respond and reflect.

Co-presented by
ICI
(Aisenstadt Equality and Community Initiative / L'Initiative Aisenstadt sur l'égalité et la communautaire)
Brown Bag Lunch Portfolio
(Groupe d'action en matière de droits de la personne / Human Rights Working Group)

WILLIAM MARTIN-CHIN

HOW McGILL IS FAILING ITS STUDENTS

In his weekly missives to students, Vice-Principal Di Grappa likes to note McGill's commitment to fulfilling its core academic mission. On this point (and only this point), Di Grappa is right. McGill does bear an obligation toward its students, that of their education. It is at this most basic obligation that McGill has been failing.

Students remember few specifics from their time at university. On leaving these hallowed halls, the finer points of the law that we will have laboured over will be a blur. We will be left with vague, patchy reminiscences from a smattering of courses. What we will recall, though, are impressions from the things around us that today might seem banal. Your favourite seat in the library. The ebb and flow of SAO deadlines. The way a university administration responds to a strike.

We will, in short, have absorbed the institutional environment that is McGill. A university's construction of normality is the most lasting impression that it leaves on its students. Acceptance of this normality is particularly disturbing in the context of McGill's handling of the current MUNACA strike.

What is McGill teaching its students in the way it has reacted to this strike? By conducting itself as it has, McGill is condoning:

- The use of communications systems to spread misinformation.
McGill has repeatedly engaged in the deliberate mischaracterization of MUNACA's positions, by labelling as a "veto" MUNACA's demand for a say in the administration of its members' pensions and benefits plans.

- Stifling expressed opposition.
McGill has successfully gone before the courts twice to obtain injunctions that prevent strikers from engaging in what would normally be legal picketing at a public institution. Picketers cannot go within four metres of McGill property, cannot congregate in groups of more than 15 and cannot use devices to amplify their voices. MUNACA's ability to spread its message never approached McGill's monopoly on the dissemination of information to its community. The injunctions further restrict the only meaningful means by which MUNACA can voice its message.

- The intimidation of voices of dissent.
McGill has been discreetly filming picketers for weeks and has recently begun to seize the identity cards of student demonstrators. McGill has also intimidated its academic staff in order to prevent them from holding classes off campus.

- Breaking the law (allegedly).
Scab labour has been reported at McGill.

None of this addresses the vexing issues that divide McGill and MUNACA. There too, MUNACA has a compelling case. But regardless of how one feels about the substantive issues, one must recognize that McGill has, over the past five weeks, set a very poor example for its students. How will we, the supposed leaders of tomorrow, react when in ten or twenty years we are faced with a labour dispute? I fear that many of us will have kneejerk reactions to comport ourselves just as McGill did back in the fall of 2011. After all, McGill is educating us. And at this, McGill is failing.

REMINDER: SEND US YOUR THOUGHTS!

Envoyez vos contributions à **quid.law@mcgill.ca**.
Deadline: every Thursday at 5 p.m.

GUIDELINES:
- Send your contributions as Word documents attached to the email.
- Include a title, your name and your year of study **in the document itself** (not in the email).
- If your article includes a photo, **include it as an attachment** in JPG format.
- Send in posters for events in PDF or JPG format.

LUCA BARONE

TAKING THE HIGH LINE FORWARD

BACK TO OUR BETTER SELVES

Editor's Note: This article was the basis for a memorandum the author presented during a public consultation held by the Communauté métropolitaine de Montréal, who will be adopting a new urban development plan by December 31st. Read more at http://pmad.ca/. Readthe author's blog at http://readthelynx.com.

8 June 2011, New York City

The second section of the High Line, from 20th to 30th Streets, was opened to the public in New York today. An elevated railroad converted into a park of ingenious design on the west side of Manhattan, the High Line is a triumph of civic engagement and urban planning. As a young Montrealer abroad, I often ask myself why my own city, so rich in creativity and history, lacks similarly enchanting and forward-thinking public spaces.

Built in the 1930's for trains that transported fresh meat into the warehouses of the Meat Packing district along Tenth Avenue, the High Line fell out of use in 1980. When it was threatened with demolition in 1999, a group of enterprising New Yorkers convinced their municipal government to convert the abandoned railway into a green promenade, and its first section from Gansevoort Street to 20th Street opened in June 2009. Why is an extraordinary project like the High Line possible in a city as difficult to govern as New York, while our smaller metropolis is perennially paralysed?

This is not a question of green space – Montreal is full of parks, but the High Line represents an innovative approach to the adaptive reuse of urban structures that integrates environmental and economic sustainability, historic preservation, and creativity in design, an approach to urban planning that is not yet evident in Montreal's cityscape. Most importantly, the High Line represents the convergence of active civic participation and excellent design.

Montreal has shown a willingness to improve, but laudable projects like the UNESCO City of Design initiative and the Quartier des Spectacles allow us merely to tread water and prevent our city from falling into cultural and literal dereliction. Discussions of Montreal often degenerate into complacent declarations of unfounded superiority that only the woefully or wilfully ignorant would believe, or into exasperated resignation to our diminished fate. In reality, Montreal's state of affairs is urgent but not desperate, improving but not yet assured.

We are a long way from the glory days of the 1960's when events like Expo '67 confirmed our international standing. Structural economic issues and political immobilisme have all contributed to Montreal's decline. There is more to the problem. Stifled by provincial navel-gazing, Montreal's crisis is also spiritual. We have lost that cosmopolitan ambition that makes things happen, that ineffable sense of limitless opportunity combined with cultural sophistication that makes a city feel vibrant and energetic: a delightful place to live and work. We must assess ourselves with candour, acknowledge our failures, and create an urban culture that harmonizes economic prosperity with the highest aesthetic and civic standards.

Montreal exhibits some of the best and worst aspects of Europe and North America. We inhabit a purgatory between Houston and Paris, afflicted by this continent's car-fuelled urban sprawl along with

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imported European architectural aberrations like the oppressive Brutalism of Place Bonaventure. The result is a dysfunctional downtown core with few residents that makes Montreal feel smaller than Portland, Oregon, a city with a fraction of our three million inhabitants but seemingly more cultural life. A functional

city is one in which one can obtain all one needs for one's daily life in the vicinity of one's home; all the essentials are within walking distance of most New Yorkers' houses, whereas finding a supermarket in walking distance of a Montreal apartment is a tall order.

The city can ill afford to perpetuate the mistakes of the past by maintaining the status quo of mediocre architecture and urban planning, a city in which a bargain-basement attitude to choosing architectural proposals results in a dollar-store quality of life, as Marie-Claude Lortie has pointed out in her recently published La Presse interview with prominent architect Gilles Saucier. Parsimonious rather than provident, we end up with oppressive mediocrity in our built environment, in which nothing is inspiring or invigorating.

Hemmed in by a byzantine bureaucracy, unwise zoning regulations, and a building code that all hinder good design, Montreal would do well to heed Harvard economist Edward Glaeser's advice, as outlined in his new book Triumph of the City, to create regulations that foster increased population density and thus also environmental sustainability and cultural and economic vigour. But the city must first give builders and architects the liberty to be bold and creative, while also preserving our historic architectural heritage.

The High Line, for example, is "owned by the City of New York and operated under the jurisdiction of the New York City Department of Parks & Recreation. Friends of the High Line is the conservancy charged with raising private funds for the park and overseeing its maintenance and operations, pursuant to an agreement with the Parks Department." Note the absence of the litany of departments, bureaus, and organizations that are usually involved in projects in Montreal. The Standard Hotel was built suspended over the High Line on massive piers – an unconventional, stunning ensemble that would probably have been impossible under the weight of red tape in Montreal. Our city has shown that it wants to improve, but it needs to put some teeth into its policies in order to move from gentle encouragement to serious economic incentives. Outside of City Hall, Montrealers must refuse to accept mediocre

design from politicians and real estate developers. Indeed, the task of fostering good design cannot fall solely on the public sector given that private companies are building all over the city.

Encouraging local talent and participating in international cultural life are both important. Montreal fails on both counts, as exemplified by Saucier, a leading architect forced to find commissions elsewhere in cities that take design seriously enough to attract the world's best talent, as Montreal once did. Little of note has been built in Montreal for decades, with the exception of Kohn Pedersen Fox's IBM building at 1250 René-Lévesque – and that was in 1992. The Sun Life Building, Ludwig Mies van der Rohe's Westmount Square, I.M. Pei's Place Ville-Marie, Moshe Safdie's Habitat 67, Buckminster Fuller's geodesic dome, Pier Luigi Nervi's Tour de la Bourse, Gordon Bunshaft's Tour Telus... These are all buildings from the past that garnered the city positive attention and allowed Montreal to participate in the broader international cultural life. Peter Zumthor, Rafael Moneo, Zaha Hadid, Frank Gehry, Renzo Piano, Richard Meier – none of these contemporary architects are on their way to Montreal.

Montreal will never be New York or Paris, nor will it build projects on the same scale as these global cities in the foreseeable future, but it was once closer to being a world city than it is today. Size is not the most pressing concern; a sinkhole of public funds like the Olympic Stadium would not do us any good. Civic competence, wise economic policy, and architectural excellence, however, are surely within our reach. Do we really want young Montrealers who have seen how pleasant life is elsewhere to stay in Montreal due to practical obstacles to moving away or because of the accident of birth? We should want to live in a Montreal in which we would objectively choose to live in spite of our personal attachment to the city. Duty demands devotion to this cause: yearning our town back to the fine city that is to come.

Photos courtesy of the author.

QUID NOVI

CALL FOR APPLICATIONS: **WEBMASTER**

Le Quid recherche un **webmaster** pour mettre à jour son site web, http://quid.mcgill.ca. Il s'agit d'ajouter les versions PDF des numéros à nos archives et mettre à jour la page d'accueil avec le numéro de la semaine.

The workload is very light (about an hour a week, tops).

Have (very) basic HTML skills? Know how to use an FTP client? **Apply today!** Send an email to **quid.law@mcgill.ca** with the subject line "Webmaster".

Si vous avez des questions, n'hésitez pas à nous envoyer un message!

JONATHAN BROSSEAU

ENTRE *A* ET *B*

La faculté est loin. Indéniablement. En fait, loin de la bouche de métro, il faut entendre. Ajouter à une distance de plus de six cent mètres cette inclinaison monstrueuse que les étudiants en droit doivent escalader tous les matins –l'hiver sera terrible!– et cela renforce la thèse selon laquelle sa situation géographique est désavantageuse.

Cependant, il faut avouer que, située au centre-ville de Montréal, elle jouit d'une proximité substantielle à de nombreux services. Restaurants, hôpitaux, boutiques, supermarchés et autres, tout se marche autour du campus de l'Université. Il est possible d'entendre le pouls de la ville, même cloîtré au fond de la bibliothèque, preuve de l'axe central de la faculté.

Mais, en regardant les choses sous un angle nouveau, celle-ci est passablement éloignée pour les étudiants de France, de la Colombie-Britannique et de Val-d'Or. Ainsi, leur situation les a forcés à migrer. Pourtant, une fois ce voyage complétéer, ont-ils cessé d'effectuer ce que l'on appelle « migration »?

Dans la mesure où cette migration est envisagée comme déplacement quotidien, alors la réponse est négative. Mais, tous n'accepteront pas la définition retenue de ce mot. De la même manière, tous n'effectueront pas leurs « petites migrations » de la même façon puisque, bien qu'on ne le réalise que rarement, les moyens de déplacement valorisés par une société –ou un groupe– représentent significativement ses valeurs. Vue d'un Montréalais sur les moyens de transport à Montréal.

Train : Il y a une compétition entre les usagers du train, à savoir qui ira porter sa voiture le plus tôt dans le stationnement de la gare. Et, il n'y a aucun contrôle des titres de transport, mais « gare » à vous, c'est une ruse pour donner des tickets.

Vélo : pratique, pratique, pratique, mais pas pour aller à une date (sueur), surtout que les automobilistes aiment faire la guerre de la rue aux bicyclettes (sueur froide).

Autobus : Les anciens étaient beaucoup mieux. Je sais que la STM a essayé de réduire ses coûts en limitant le nombre d'autobus pour handicapés, et donc en accommodant ceux accessibles au public, mais la rangée de nouveaux bancs qui se relèvent sur le côté, il n'y a personne qui veut s'asseoir dessus!

Métro : « Une porte de train bloquée entraîne un ralentissement de service sur la ligne... » OU « La STM vous remercie de votre compréhension ». Étudiants étrangers, sachez que vous aurez amplement la chance d'être remerciés lors de votre passage à Montréal.

Marche : lent au carré. Le temps, c'est de l'argent et, si vous décidez d'attendre votre petit bonhomme blanc, vous en aurez pour la journée.

Taxi : c'est pour les riches. Pourquoi est-ce que ça coûte aussi cher ici? Moins cher à New York, moins cher en Amérique du Sud, moins cher partout! Pas étonnant qu'ils soient peu utilisés par les pauvres étudiants.

En terminant, une chose particulièrement singulière sera notée. Les timbres sonores de la STM –qui va écouter ça?!– sont disponibles sur son site Internet. Décidément, on sait à quoi ils jouent dans leurs bureaux pendant la journée.... Pendant que des étudiants en droit montent et descendent la terrible côte sur Peel.

VP External

LSA COUNCIL'S RESPONSE TO THE MUNACA STRIKE

To all members of the Law Students' Association,

In the last Quid issue, an article was published criticizing the LSA Executive's unresponsiveness in regards to the MUNACA strike. Chris Durrant made a very important point that there has been a lack of communication and transparency on the decision to remain neutral made by the LSA Executive. As such, a motion was brought to LSA Council on October 11th in the hope that it expressed a more formal and informative statement than what was sent out through the LSA listserv.

Après un débat exhaustif, il a été décidé que l`AÉD maintiendra sa décision de ne pas prendre parti dans ce débat. Les négociations collectives sont un processus complexe où plusieurs intérêts différents se confrontent. Les requêtes de MUNACA sur les salaires et l'équité des pensions ainsi que les resserrements financiers invoqués par l'Université McGill constituent tous deux des arguments raisonnables. De ce fait, les étudiants en droit ont exprimé nombre d'opinions divergentes sur la grève de MUNACA. En prenant position, l'AÉD se placerait dans une situation précaire en polarisant l'opinion étudiante.

In a matter that is very divisive to our constituents, it was decided that the best course of action was to relay information from the many different interest groups in the hope that law students will freely make their own opinion and support the cause they believe in. This is not to say that the LSA will shy away from all controversial topics; especially true for situations where the LSA Council are the only advocates for matters affecting students. In the case at hand, there are already many groups on campus, namely the SSMU and Radlaw, who publicly support the MUNACA workers and organize demonstrations and events to show their support. LSA Council is quite aware of the effects of silent neutrality as highlighted by Mr. Durrant. This is why we have been, and will remain, committed to forwarding information relevant to the strike to students without bias and from the many different interested parties.

En facilitant l'accès à l'information sur la situation, l'AÉD encourage les étudiants à développer leur propre opinion sur ce conflit qui nous affecte tous. L'AÉD respecte ainsi en tous points le mandat qui lui est confié à travers sa Constitution, soit de «représenter, informer et développer les intérêts éducationnels, culturels, politiques et sociaux de ses membres».

BCL/LLB'11

WHEN YOU'RE ELECTED TO PLAN PARTIES...

A SEMI-RESPONSE TO CHRIS DURRANT'S REQUEST OF THE LSA

At the risk of any comparisons to Statler and/or Waldorf of The Muppets... yes, I graduated, and no, I don't always need to have the last word. But, upon reading Mr. Durrant's open letter in the last Quid, I couldn't resist penning a missive with my LSA hat on for my beloved Quid, only to recall I don't actually work at the Quid anymore, and, uhh, I'm no longer part of the LSA. *tear*

Feelings of alienation and nostalgia aside, here are my 2*10^-2 dollars worth, after the disclaimer that I don't have a position on the strike – heck, I don't even go to McGill anymore!

clears throat for long-winded rant

It's important to remember what the LSA stands for: The Law Students' Association (Well, okay, the apostrophe is debatable because some LSA documents have it and others don't...) but essentially it's your student union. You paid dues. You are a member. Yes, you, dear student holding this paper – you paid a fee and have a right to vote at general meetings. In addition to rights, you have responsibilities (such as voting), can be disciplined (through the illustrious J-Board) and can even lose your membership in certain cir-

CONTINUED FROM PREVIOUS PAGE

cumstances (that means no coffeehouse, and no, you don't get your money back – that's also in the Constitution and By-Laws, which I trust you've read numerous times...)

The LSA speaks with a collective voice primarily through referenda, such as most recently agreeing to pursue further steps to change our LL.B. to a J.D. While it's helmed by an elected Executive and administered by an elected Council, it rarely speaks as a whole and even more rarely does so publicly.

This makes a lot of sense – the LSA must consult with its members before taking a stance... on anything. Surely, the Executive or Council could issue a statement reflecting the opinion of that particular group of students. But, with regard to the LSA as a whole – i.e. here's what the student body thinks – it's important that any statement indeed reflects the majority opinion of LSA members.

It should be noted that the question need not come through the Executive or Council before being put to students. Indeed, Mr. Durrant - like any LSA member - could propose the question of strike support at an LSA, AGM, SGM, or even force a referendum. The result would be a vote of students on the question.

And, isn't that what you as a student would want, in theory? While the prevailing current in the pages of the Quid may be in favour of the strike, it doesn't mean the majority of students feel that way. The only way to know is to ask them. We shouldn't be quick to assume how our peers think on any issue, and there is always the risk of interpreting a vocal minority as representing a majority (as I would argue turned out to the case in comparing Council's cantankerous and close JD-LLB votes over three years to a rather decisive referendum result last year). We simply do not know the majority view on the strike – and it may be that even if a majority of law students are in support of the strike – a majority may also not feel it is the LSA's place to get involved.

We enjoyed a fairly apolitical LSA in the three years I sat on Council, and I believe students have come to expect this of the LSA. Certainly, given the inability of students to opt-out of LSA fees (unlike QPIRG, as noted in Mr. Shortt's recent submission) or somehow effectively voice disapproval of the organization's stances, it is even more problematic for the LSA (Council, Executive, or as a whole) to get take positions on these issues.

Further, there is a lengthy discussion and debate that could be had on the merits of symbolic motions before the LSA generally. Council has had great difficulty with them in the past, whether it was the issue before the 2008-2009 Council of sending a letter in support of Muslim law students at Queens University, or the request of the 2009-2010 Council to join with other councils to ask the Minister of Justice to increase Legal Aid funding. Beyond the need for time for Council or Executive members to consult with students, there is the concern over where taking on matters outside the purview of these bodies may lead.

While it may begin with supporting fellow law students, legal aid, or a strike involving law staff, the concern is that it would grow to symbolic disapproval of certain Government justice initiatives and culminate with stances (such as other student councils take) on more contentious issues, such as on questions related to the Israel-Palestine conflict. It would risk LSA elections becoming political contests, AGMs turning into the fiascos observed at previous SSMU gatherings, incessant referenda that would reduce the already paltry LSA participation rate at the Faculty even further, and would frankly not be the best use of anyone's time.

Students can, as they have, get involved with the strike through joining the picket or writing Quid articles, for example – but the LSA (Council, Executive, or whole) need not offer its endorsement of either side. And, I assert, this neutrality is to everyone's benefit. It doesn't mean the LSA (Council, Executive, or whole) isn't sympathetic or in agreement with those on strike. It's simply taking the principled stand that it's better to stay out of the debate than change the way the organization operates.

Of course, we let LSA Council and Executive folks make decisions for us all the time re parties and events. But, we elect them (well, some are elected – others are acclaimed) to do this, and at this they do a fine job. We are lucky that our 'student politics' has not been that political. And, while there is a process in place that would allow the LSA to "do more" – as Mr. Durrant puts it (and he could lead the charge in this regard) – I truly believe we "do more" in this instance by not having the LSA (in any configuration) take a stance.

Exchange Student

MAXIME PUTEAUX

FALLING SKIES

SPUTNIK AND THE SPACE LAW UMBRELLA

HOW CANADA, OUR FACULTY AND FALLING SPACE JUNK ARE MORE CLOSELY RELATED THAN YOU MAY THINK !

As you may have read in the media a couple of weeks ago, Upper Atmosphere Research Satellite, a de-comissioned NASA satellite about as big as a van, was scheduled to fall down to Earth. On September 7th, a U.S. official warned that all fallen debris would be government property, regardless of where it fell. You read correctly: they did not know exactly where it was expected to fall! The more we launch satellites, the more debris is created and the greater the risk of them falling back down to Earth at the end of their lifecycle. Even if experts expected UARS to fall in unpopulated areas, they could not exclude the possibility of it falling in a populated part of the world.

The media attention sparked concerns about the potential risk posed to people. "Will a U.S. satellite fall on your head?," some asked. UARS is among the largest of space-crafts that have ever plummeted out of control.

The need to create a framework around space activity arose when the first man-made object launched in space: Sputnik, in 1958. The UN was considered as the best forum for regulating space use. In the seventies, the UN Committee Of Peaceful Uses of Outer Space (UNCOPUOS) developed several principles of international space law and enacted five treaties. You may not be aware of this, but the manor next to our faculty on Peel Street houses the Institute of Air & Space Law. As one of four such institutes in the world, it has teached 900 graduates since its creation in 1951 who have contributed to the development of space law in various international organizations.

From a legal point of view, the U.S. declaration about UARS was not only a warning against treasures hunters, but mostly a recognition of U.S.'s liability for any damage caused by debris surviving re-entry into the atmosphere. If the principle of non-creation of new debris is interpreted broadly, the liability of launch state is enforceable. This remedy was used by Canada against the Soviet Union when the soviet Cosmos 954 satellite fell on the Northwest Territories with an onboard nuclear reactor. The Canadian government billed the Soviet Union $6M for clean-up efforts, including both actual expenses and additional compensation for future unpredicted damage.

Since an ounce of prevention is worth a pound of cure, UNCOPUOS adopted in 2007 a set of Space Debris Mitigation Guidelines proposed by the Inter-Agency Space Debris Coordination Committee. It proposes to reduce the amount of debris at the source by putting useless empty rocket engines and dead satellites on parking orbits. But these guidelines are not binding. In 2009, McGill hosted the IADC meeting to work on making them into binding rules. Some countries had already passed legislation to enforce the guidelines. On November 11-12, the McGill Institute of Air and Space Law will host the International Interdisciplinary Congress on Space Debris Remediation to continue work on these issues.

Fortunatly, UARS fell above the Pacific Ocean on September 24 without hurting or disturbing anyone. This happy ending was a lost opportunity to set a precedent in space law. As long as no space garbage trucks clean the Earth's orbit, international space law remains the only real umbrella against space junk.

But don't worry: for you, the main danger remains a collision with a traffic light on Peel Street that you hadn't seen because you were looking for another satellite.

LIBRARY NEWS

Important! Law Library Study Hours have been EXTENDED!

Monday to Friday	Service	10:00 a.m. - 6:00 p.m.
	Study Hours	**10:00 a.m. - 2:00 a.m.**
Saturday and Sunday	Service	Closed
	Study Hours	**10:00 a.m. - 2:00 a.m.**

Legal Citations
It is easy to feel lost if you are not used to legal citations. If you cannot understand a legal citation and don't know how to find a material cited, take a look at our *Guides for journal editors* at the bottom of the **Law subject guide** webpage. There are two guides: a **PDF document** that you can download and print and an **interactive Cite-checking guide** (a Prezi presentation) http://prezi.com/p_nnojsa2hj9/cite-checking-guide/

Legal Abbreviations
Legal abbreviations may look scary, but they are easy to decode. You will find a selection of online and print sources that will help you to decipher the abbreviations at our page **Legal Abbreviations** on the Law subject guide webpage. http://www.mcgill.ca/library/library-findinfo/subjects/law/abbreviations/

Reminder: Dalloz online
As of last term, we have access to a wonderful French law information resource **Dalloz.fr**. To be able to access it, click on the link Legislation and cases - foreign jurisdictions on the Law subject guide webpage, and you will see it below the heading Foreign and International Resources.
La souscription Dalloz de La Bibliothèque McGill inclut:
- **Les fonds Dalloz en ligne** : Codes, Répertoires, Dalloz action, Revues, Jurisprudence, Formules
- **6 matières de droit actualisées en continu** : Civil, Affaires, Pénal, Administratif, Social et Européen - International
- **Dalloz actualité**, le quotidien web d'actualité juridique

MacBook lost
Two weeks ago, a student lost a Law Library MacBook in the DSS classroom at the Law Library. In case you found it, we would be very grateful if you could bring it at the loan desk.

In this column, we would be delighted to answer all your library-services-related questions. Please send your questions to Svetlana Kochkina svetlana.kochkina@mcgill.ca, Liaison Librarian Nahum Gelber Law Library.

GRADUATION PICTURES

Attention all 3rd and 4th year students:

If you are graduating in December 2011 or May 2012 , the time to take your graduation pictures has come!

Pour ce faire, veuillez contacter la compagnie HF photos au **514-499-9999 extension 0** pour prendre rendez-vous (2015 rue Drummond Suite 600).

Notre faculté aura la priorité des prises de photos pour les semaines du **17 Octobre et du 24 Octobre, 2011**.

Il y aura fort probablement d'autres disponibilités en Novembre mais puisque notre priorité n'est pas assurée pour ce mois, nous vous recommandons donc d'y aller le plus tôt possible!

Il est à noter que la compagnie a des heures d'ouvertures de 9h30 à 17h30 du lundi au vendredi et est ouverte de 9h30 à 20h00 le jeudi. La compagnie est aussi ouverte le samedi de 10h00 à 16h00.

Vous devrez débourser **55$** pour la prise de photo, ce qui vous assure une place sur la traditionnelle mosaïque dans la faculté ainsi qu'une copie de la mosaïque en miniature.

Students on exchange at the moment will be allowed to take their pictures from January 3rd to January 14th. This exception only applies to those students concerned.

Alexandra Meunier
Marie-Andrée Plante
4L Class Presidents

LES CHRONIQUES HISTORIQUES

ALEXANDRE MICHAUD

LE WESTMOUNT DES FRANCOPHONES

La Cité de Maisonneuve, aujourd'hui une partie de l'arrondissement d'Hochelaga-Maisonneuve, à Montréal, en a été indépendante de 1883 à 1918, de sa sécession à son rattachement à la métropole québécoise. Entre ces dates, la municipalité, fruit de la volonté de quelques visionnaires biens nantis, aspire à devenir une ville modèle et un pôle industriel majeur.

Tout commence donc vers la fin du XIXe siècle, lorsque, croulant sous les dettes, la municipalité d'Hochelaga est contrainte de fusionner avec Montréal. Les quelques grands propriétaires fonciers de l'est de la ville, dont les possessions s'étendent sur une zone essentiellement rurale, décident alors de s'en séparer pour fonder la ville de Maisonneuve. La croissance de la nouvelle entité politique est aussi rapide que considérable : on promet aux entrepreneurs une fortune « rapide et solide » en mettant en place des conditions fiscales favorables à l'installation des industries, comme des congés de taxes et des subventions, et les retombées de cette politique ne tardent pas à se faire sentir. Au fil des ans, la ville attire de nombreuses entreprises, notamment du domaine de la métallurgie, du cuir, du papier-peint, du textile, de l'alimentation et de la fabrication de meubles. À l'aube du XXe siècle, ce qui n'était à l'origine qu'un minuscule hameau de 287 habitants était devenu le cinquième centre industriel au Canada, et même la capitale de la chaussure, avec plus de trente manufactures en produisant 3,5 millions de paires par an. Les ouvriers suivent le mouvement et s'installent en masse dans des appartements en rangées fraîchement érigés.

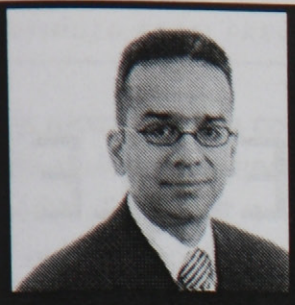
Les bains et le gymnase publics de Maisonneuve en 1916. Le style Beaux-Arts, somptueux et élégant, plaît beaucoup aux bourgeois de l'époque. (Source : Wikicommons)

Sous l'impulsion du maire de la ville, Alexandre Michaud – un nom qui semble prédisposer à voir grand – et avec Marius Dufresne à la tête du conseil municipal, on organise parallèlement l'évolution de cette « ville modèle » en pleine expansion. On trace de nouvelles rues, comme le boulevard Pie-IX, à l'époque agrémenté d'un terre-plein piéton bordé d'arbres, et le boulevard Morgan, conçu pour imiter les Champs-Élysées de Paris.

Leur projet le plus audacieux fut cependant de doter Maisonneuve d'édifices publics dignes de leurs aspirations, et c'est ainsi que l'architecte Oscar Dufresne, le frère de Marius, dessina les bâtiments de style Beaux-Arts qui embellissent toujours le quartier aujourd'hui : l'Hôtel de Ville, aujourd'hui une bibliothèque, les bains publics, le Marché Maisonneuve et la caserne Letourneux. Le cinquième projet, celui d'un vaste et grandiose parc en face du château des frères Dufresne, avec club de golf, amphithéâtre, piste de course, jardin botanique, parc zoologique, hôtel, musée, galerie d'art et aquarium, ne verra finalement pas le jour – le parc olympique et ses dépendances, qui s'y trouvent aujourd'hui, ne seront construits que bien plus tard.

Certains historiens qualifient aujourd'hui ces plans urbanistiques ambitieux de véritable « folie des grandeurs », et leur imputent la fin de la cité. Il est vrai que la ville s'endette fortement pour mener à bien ses plans. Le conseil municipal, qui rassemblait les quelques bourgeois à l'origine de la prise d'autonomie de Maisonneuve, ressemblait davantage à une chambre de commerce qu'à un véritable organe au service de la démocratie, mais la facture des coûteux projets ne pouvait pas être entièrement refilée aux petits ouvriers qui continueront pourtant d'affluer en nombre dans cette ville en pleine croissance. La Première Guerre mondiale et l'effondrement du marché immobilier qu'elle induisit vinrent à bout de ce rêve citadin, poussant la ville à la faillite. En 1918, alors que sa population était passée à plus de 30 000 âmes, Maisonneuve n'a d'autre choix que de demander son annexion à Montréal.

Cette flamboyante histoire d'un quartier aujourd'hui considéré comme défavorisé demeure assez méconnue aujourd'hui. Il n'en demeure pas moins que la Cité de Maisonneuve, ce Westmount des francophones, nous a laissé un patrimoine architectural d'une valeur inestimable, qu'il fait bon découvrir lors d'un après-midi de promenade.



hrwg

gamdp

McGill Centre for Human Rights and Legal Pluralism

Azim Hussain

Fraternity and the Debate Regarding the Face-Veil: France, Belgium, and Quebec in Comparative Perspective.

Oct. 19, 2011 | RM 316 NCDH, McGill Faculty of Law | 12:30 - 2:00PM

Photo by Maria Chily

CHRONIQUES FACULTAIRES

VINCENT RANGER

YOUHOU! ON SE RÉVEILLE!

Il est fascinant, et très agréable, de voir comment notre faculté est un lieu de foisonnement des idées. Simplement en regardant le calendrier des activités de la semaine dernière, on pouvait assister à un séminaire sur le pluralisme juridique, une table ronde de réflexion sur de récents événements racistes à Montréal, une conférence sur le droit pénal international, etc. Il y en a pour tous les goûts!

Par contre, il est aussi fascinant de constater que, malheureusement, certains enjeux majeurs passent complètement sous le radar. J'ai nommé celui du débat actuel sur l'augmentation des frais de scolarité.

Pourquoi personne ne semble s'intéresser à ce débat social majeur qu'est le financement de l'éducation? Le LSA a récemment tenu une assemblée pour discuter de cette question. Combien étions-nous? Huit. (Bon, il faut dire que la réunion avait été convoquée 3 jours à l'avance, un vendredi midi, au local du LSA... Mais seulement huit étudiants, c'est tout de même peu.) Comme si cette question ne nous concernait pas! Ce devrait être le contraire.

Le coût des études universitaires pose des questions sociales fondamentales sur notre université et sur la société en général. Il est bien intéressant de vouloir bâtir un programme de droit où l'on transcende les traditions juridiques, les langues, les origines ethniques, etc., mais qu'en serait-il si nous restons incapables d'attirer des étudiants de toutes les classes sociales? Avec une facture totale sensiblement plus élevée que dans tous les autres programmes québécois, il est raisonnable de se demander quel serait l'impact d'une augmentation sur notre capacité d'attirer des étudiants venant de tous les milieux socio-économiques.

Personnellement, je suis convaincu que des frais de scolarité bas permettent d'assurer une meilleure accessibilité aux études pour tous. Mais avant tout, ce qui me préoccupe, c'est de constater que tous les enjeux sociaux et internationaux semblent intéresser les étudiants, de la protection des animaux au droit de l'Amérique latine, mais que personne ne semble se préoccuper d'un enjeu qui nous touche pourtant tous et qui est si près de nous.

*****

2? 3? 4?

Notre parcours universitaire à la Faculté, comme dans le reste du Québec, est mesuré principalement sur la base des « crédits ». Le baccalauréat en droit à McGill nécessite d'avoir obtenu au moins 105 crédits. Mais avez-vous déjà réfléchi au fonctionnement de ces crédits à la Faculté?

La Conférence des recteurs et des principaux des universités du Québec (CREPUQ) — le regroupement des universités québécoises — définit le crédit comme suit :

Le crédit est une unité qui permet d'attribuer une valeur numérique à la charge de travail requise d'un étudiant pour atteindre les objectifs particuliers d'un cours .

Les crédits qu'on nous attribue lors de notre parcours scolaire sont donc censés mesurer le travail que nous devons livrer pour réussir un cours. Par contre, à mon avis, cela est plus ou moins le cas à la Faculté. En droit, le nombre de crédits attribué à chaque cours est fait de la façon suivante :

> [...] each course is assigned a credit rating reflecting the number of weekly contact hours .

Donc, un cours où le professeur enseigne 3 heures par semaines, vaudra 3 crédits.

L'adéquation entre le nombre de crédits et le nombre d'heures d'enseignement postule que la charge de travail que demande un cours est directement proportionnelle avec le nombre d'heures où il faut être en classe. Vous savez comme moi que cela n'a aucun fondement dans notre programme. Des cours de 2 crédits peuvent demander beaucoup plus de travail qu'un cours de 4 crédits. Après sept sessions, je n'ai vu aucune corrélation entre le nombre de crédits et le travail que demande un cours. Est-ce que le cours d'obligations contractuelles (6 crédits) demandait vraiment 50 % de plus de travail que le cours de fondements du droit (4 crédits)? Je ne crois pas.

Cette situation est surtout préoccupante en regard des cours dits « séminaires ». Ceux-ci valent généralement 2 crédits. Par contre, ces cours demandent généralement autant, sinon plus de travail que des cours réguliers de 3 crédits. En déterminant arbitrairement le nombre de crédits par rapport au nombre d'heures d'enseignement, la Faculté sous-estime l'importance que prennent ces cours en regard du travail demandé.

Cette situation a deux principaux impacts. D'abord, elle limite la possibilité pour les étudiants de prendre les séminaires. En n'accordant que 2 crédits à ces cours, il devient très exigeant pour les étudiants d'en prendre plusieurs, puisque ceux-ci, n'apportant pas beaucoup de crédits, obligeront les étudiants à suivre tout de même plusieurs autres cours. De plus, cette différence diminue leur importance dans la cote universitaire (GPA). Une note de B+ dans un cours de séminaire vaudra

CONTINUED FROM PREVIOUS PAGE

2 fois moins dans la cote universitaire que si elle avait été obtenue dans un cours de 4 crédits. Frustrant quand on sait le travail que mettent les étudiants sur des travaux importants qu'il faut faire dans ces cours!

Je comprends qu'il peut être difficile d'évaluer la charge de travail que chaque cours représente pour l'étudiant. Toutefois, je crois que la distinction faite sur la base du nombre d'heures d'enseignement n'est pas réaliste. Elle ne représente aucunement la charge de travail nécessaire pour réussir le cours. Dans ce contexte, pourquoi créer cette distinction? Même s'il reste souhaitable que les crédits représentent l'effort réel nécessaire pour réussir un cours, il serait tout de même plus équitable d'abolir les distinctions artificielles actuelles. Bref, de statuer que tous les cours valent 3 crédits indépendamment du nombre d'heures d'enseignement. Cela aurait comme avantage d'éliminer une distinction qui valorise, sans justification démontrée, certains cours au détriment d'autres.

DISABILITY AND REPRODUCTION IN THE AGE OF REPROGENETICS: COMPLEX RIGHTS AND CHOICES

You are warmly invited to attend a discussion of disability and reproductive rights, **Friday, October 28 at 12:30pm, room 312**, co-organized by the **Disability and Law Portfolio** and the **McGill Journal of Law and Health**.

We are looking for volunteers to help out with this event (it will not take much of your time and it would be very much appreciated). Please let us know if you are interested (contact e-mails at the end).

Vous êtes chaleureusement invités à assister à un panel sur le handicap et les droits reproductifs, vendredi le 28 octobre à 12h30,à la salle 312, coorganisé par le groupe sur le handicap et le droit et la Revue de droit et de la santé de McGill. Les présentations se feront en anglais. Nous cherchons aussi des bénévoles pour nous aider à organiser cet événement: si le sujet vous intéresse et que vous avez quelques instants à nous consacrer, merci de nous contacter (coordonnées à la fin), ce serait très apprécié!

PANELISTS:

Roxanne Mykitiuk
Roxanne Mykitiuk is an Associate Professor of Law at Osgoode Hall Law School where she teaches in the areas of Law and Disability, Family Law, and Health Law and Bioethics. From 1990-92 she was Senior Legal Researcher for the Canadian Royal Commission on New Reproductive Technologies. In 2002, she was appointed to the Ontario Advisory Committee on Genetics. In 2009, she was Scholar in Residence at the Law Commission of Ontario working on their project on reforming the law as it relates to people with disabilities. Professor Mykitiuk is the author or co-author of a number of articles and book chapters investigating legal, ethical and social implications of new reproductive technologies and the new genetics and the legal construction and regulation of embodiment and disability. She holds a number of current research grants funded by SSHRC, CIHR and Genome Canada.

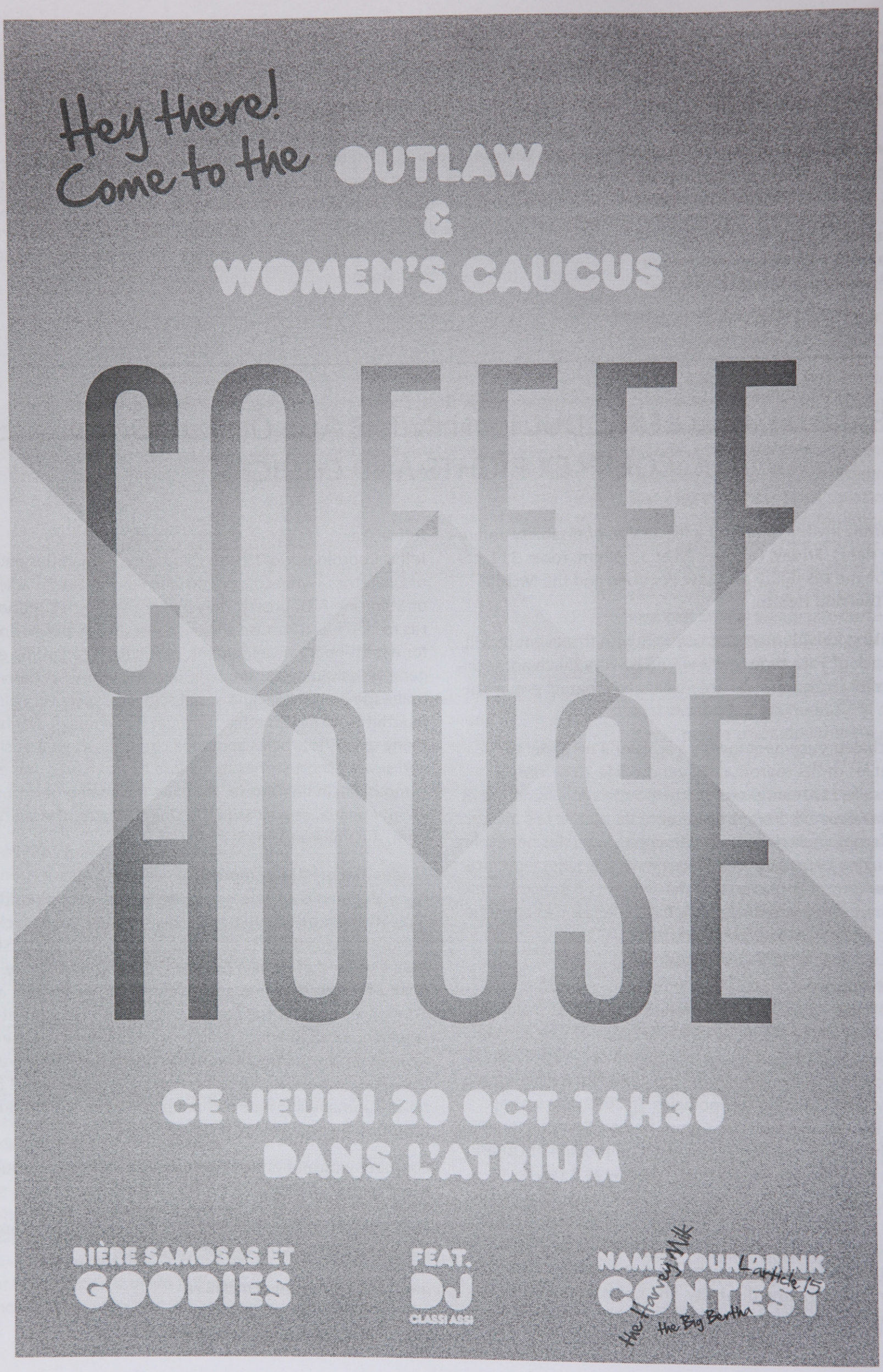
Jeff Nisker
Jeff is Coordinator of Health Ethics and Humanities and Professor of Obstetrics-Gynaecology and Oncology at the Schulich School of Medicine & Dentistry, University of Western Ontario (UWO). His research is transdisciplinary, centering on public engagement for health-policy development, particularly regarding emerging genetic technologies. Similarly, his educational initiatives embrace the humanities and social sciences, such as in his narrative bioethics and health ethics through film courses. Jeff has written many scientific articles and book chapters, as well as six plays and several short stories to explore health issues and encourage compassion in healthcare. His plays have been performed throughout Canada, as well as in the United States, the United Kingdom, Australia and South Africa.

Moderated by: **Abby Lippman**
Abby Lippman is a Professor in the Department of Epidemiology, Biostatistics, and Occupational Health, and is an Associate Member of the Departments of Family Medicine, of Social Studies of Medicine, and of Human Genetics at McGill University. She is Chair of the McGill Senate Subcommittee on Women, and Policy Committee Chair of the Canadian Women's Health Network. Her research, much of which is done with community-based groups, focuses on the politics of women's health and the development of policies related to the regulation and application of biotechnology. Her specific interests are pharmaceutical products and reproductive and genetic interventions.

For more information or to volunteer for the organization of the event, please contact us:

Pour plus d'infos ou pour proposer votre aide pour l'organisation de l'événement, merci de nous contacter:

melanie.benard@mail.mcgill.ca
Corri.longridge@mail.mcgill.ca
anne-claire.gayet@mail.mcgill.ca


Hey there!
Come to the
OUTLAW
&
WOMEN'S CAUCUS
COFFEE
HOUSE
CE JEUDI 20 OCT 16H30
DANS L'ATRIUM
BIÈRE SAMOSAS ET
GOODIES
FEAT.
DJ
CLASSIAGSI
NAME YOUR DRINK
CONTEST
the Harvey Nick
the Big Bertha
Caffeine 15

Law IV

THOUGHTS ON "RECONCILIATION"

From September 28 – October 1, 2011, the Indigenous Bar Association/L'association du barreau autochtone ("IBA/ABA") held its 23rd annual conference on Algonquin Unceded Territory, Ottawa at the National Arts Centre of Canada. This important annual event gathers Indigenous law students, lawyers, academics, judges, Elders, and professionals working in fields related to law and legal education.

Canada's Truth and Reconciliation Commission co-sponsored the conference. Appropriately, the theme was "Reconciliation: Changing Paradigms." Reconciliation is a buzzword I often hear, but until I went to this conference I hadn't seriously focused on this concept. Here are some of my thoughts on the importance of these 4 days of intense intellectual, emotional and spiritual reflection.

To me, reconciliation means the process of bringing peace and harmony back to relationships that were once, but no longer are, peaceful and harmonious. This is obviously not a concept that is in the exclusive domain of Indigenous peoples. However, much healing is required in many Indigenous communities in Canada and internationally. Thus, there is a great deal of focus on the process of reconciliation in our communities. What does this mean?

La conférence de l'ABA: un processus de réconciliation en soi

Suivant le protocole de la nation Algonquin, les ainées et ainé Claudette Commanda, Josie Whiteduck et Peter Decontie ont souhaité la bienvenue aux participants de la conférence. À toutes les réunions des autochtones au Canada, nous reconnaissons la nation autochtone du territoire sur lequel nous nous réunissons. Cette cérémonie impose une réflexion sur la réconciliation de notre perception de l'histoire du Canada en lien avec les autochtones du territoire dit « nouveau monde ».

Nous avons examiné le concept de la réconciliation dans les nations autochtones de plusieurs angles, ainsi qu'aux niveaux international, fédéral, provincial, communautaire, familiale et individuel. Si on examine la réconciliation sous tous ces angles et niveaux, ça nous permet aussi d'examiner les relations entre, par exemple, le niveau personnel et le niveau international. Avant qu'on puisse agir sur la scène internationale, il faut avoir une fondation solide de soi-même ainsi que de sa communauté.

En tant que membre de la génération suivant celle qui a été forcée d'assister aux écoles résidentielles, je crois important d'entendre et de partager les histoires découlant de cette période déplorable de notre histoire canadienne. En fait, cela facilite une meilleure compréhension des questions « pourquoi » et « comment » nos communautés sont dans l'état qu'elles sont présentement. C'est important de noter que je ne parle pas uniquement des difficultés dans nos communautés, mais également des réussites.

With a better understanding of where I come from, I feel a greater sense of where I'm going. Sharing my story with those who have a common understanding of the reality of living as Indigenous people in Canada, it also provides me with a strong sense of community. The IBA has some of the brightest minds I have ever had the privilege to work with. These role models support Indigenous law students; this provides us with strength and confidence to carry on our studies.

Law studies at McGill: a process of reconciliation

"Reconciliation begins with the individual... Your decision to go to law school, your decision to stay in law school, your decision to finish law school, and your decision to stay in the law – each of those decisions was a decision of reconciliation. Because you know... every day that we work within that legal system, we have to resolve for ourselves the question of 'Why am I here?'" – Commissioner Justice Murray Sinclair.

My time at McGill has given me a breadth and depth of perspective on my history individually, and ours collectively. I did not anticipate this when I wrote my letter of motivation and applied to come here. I am pleased with how I have progressed.

While here, I have developed an increased capacity for placing myself in my historical, legal, social, cultural, linguistic, educational, economic, spiritual, political, physical and geographical context. This ongoing process of self-discovery is giving me the awareness I need to act in a proper way.

Pat Metheny, a jazz guitarist, said that "a guy who's an excellent car mechanic is able to see a problem and somehow reconcile his place on Earth at that moment with that particular issue and achieve a certain resolution."

To be the best at what we do, it will be imperative to really understand what is going on around us. As fans of human flourishing who are participating in working towards that goal, we must ask ourselves: "What would you like to see next with this particular issue in order to achieve a certain resolution?" Once we have a solid grounding in our place on Earth, at that moment, we are then able to act in a good way.

Rédiger un article pour le Quid: un processus de réconciliation

Je suis Inuk de Nunavik et de Nunatsiavut, mais mon nom est Flowers, nom d'origine anglaise. J'ai grandi dans le Grand Nord,

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mais j'ai habité presque la moitié de ma vie « down south », c'est-à-dire, à Montréal. J'ai de la famille, des amis et des collègues dans les deux endroits. Souvent je me trouve à expliquer ce que c'est d'habiter dans une communauté autochtone, car il y a une grande lacune dans l'imaginaire canadien de la réalité des autochtones du Canada.

Je partage mes pensées parce que je pense qu'ellesont quelque chose à offrir à tous. Nous nous trouvons chacun et chacune dans un certain contexte individuel, dans nos pays, dans nos communautés, sur la planète, et notre éducation nous permettra d'agir avec beaucoup de pouvoir. Lesquestions pour chacun et chacune sont donc : où sommes-nous? Où allons-nous?

Je propose qu'une fraction de la réponse inclue l'affirmation que nous sommes à un grand moment de l'histoire canadienne des autochtones et des non-autochtones. *La commission de vérité et réconciliation du Canada nous rappelle l'histoire des crimes contre l'humanité* que nous avons commis contre nos propres concitoyens. Qu'est-ce qu'on fait avec ce savoir?

The conference, my studies, this article: a process of reconciliation

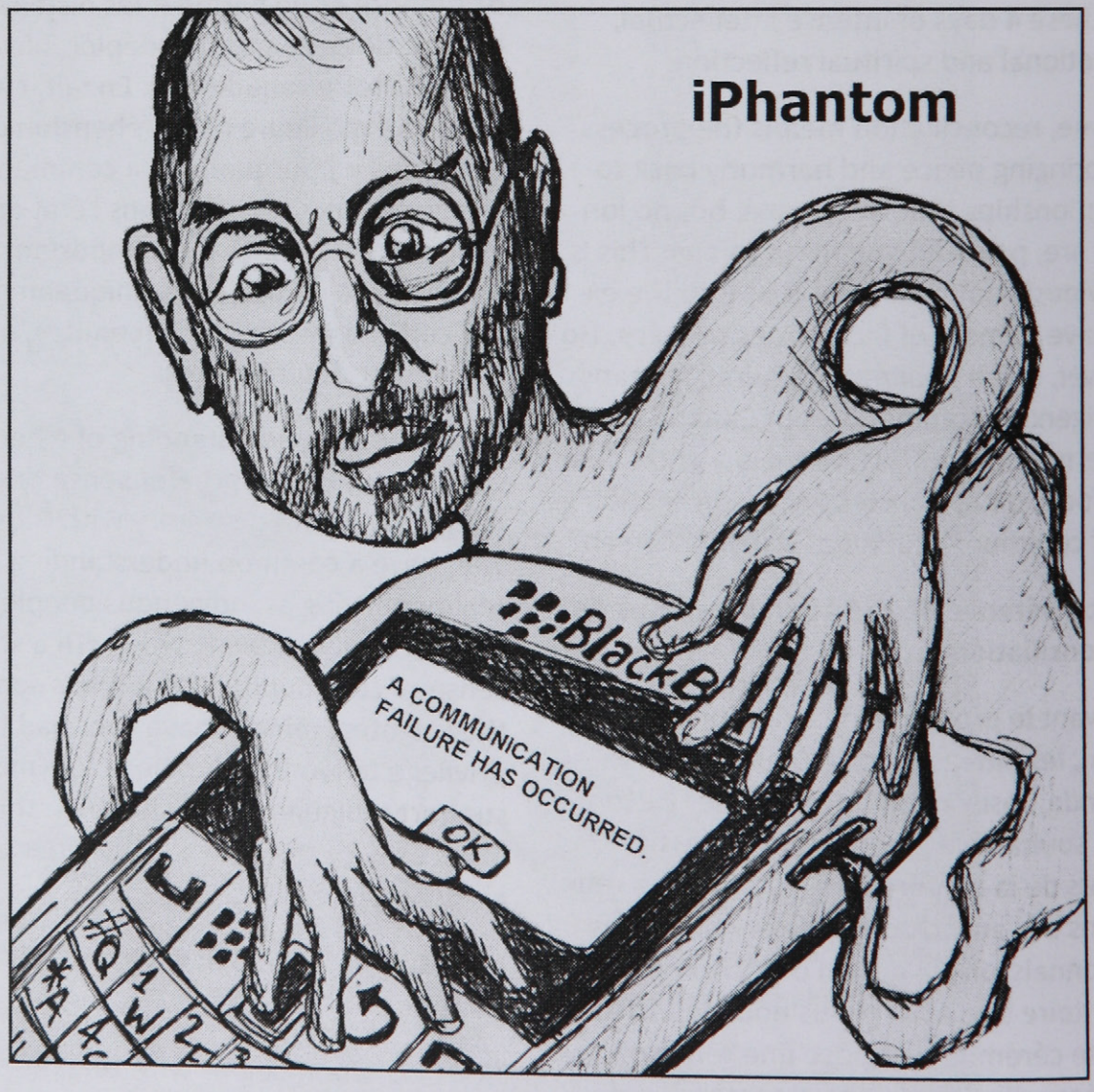
Justice Sinclair said: "We need to stop thinking about residential schools as an aboriginal problem. Residential schools is a Canadian problem. Residential schools is about this country. Residential schools is about what this country did to itself. Because not only did you deny to aboriginal children knowledge about their identity, knowledge about their language, and interfere with their relationship with their families, but you denied from yourself the ability to learn from aboriginal people of Canada. The ability to include aboriginal people in this country. And as a result, this country is the worse for it. And this country needs to learn that there is something that Aboriginal people can and will contribute to this country when we will have gotten through this process."

Comme j'ai grandi dans les communautés nordiques et autochtones,j'ai toujours été conscient à un certain niveau de cette réalité. Mais mes études à McGill m'ont aidé à connecter les aspects profondément personnels avec les aspects de niveau macro. J'ai commencé à réconcilier mon histoire personnelle, familiale et communautaire : j'ai une meilleure connaissance de moi-même, j'ai une meilleure compréhension de ma famille, et j'agis avec sagesse (je pense) pour ma communauté. J'espère que vous avez réconcilié ou réconcilierez à votre manière aussi. Nakurmiik, thank you, merci.

Law II

ANDREW BAKER

CARTOON



EDITORIAL

(continued from page 3)

But the mainstream wouldn't care nearly as much were it not for the Apple's recent atmospheric success. And for that, Jobs can thank the products he helped create.

Ever since Jobs' return in 1996, Apple has not only designed top-notch consumer electronics: it has designed products that people emotionally *connect* with, consciously or not. Take the first iMac, with its coloured round plastic shell: next to the beige boxes of the 90s, it looked downright warm and fuzzy. Or the iPod: Jobs had the insight to realize how important music was in people's lives. Create a device that makes it effortless to carry, organize and play music one loves, and it won't take long for people to love the device itself. Over the years, Apple has always emphasized the emotional aspects of their products — iMovie is for making skating videos with your buddies, PhotoBooth means hours of silly fun for toddlers and students alike, the iPad makes an artist out of your three-year-old, and the list goes on.

Yes, effective marketing has a lot to do with Apple's reinvention. Apple wasn't cool ten years ago. (I remember lobbying my high school to get iBooks instead of Windows laptops for *art* class and being dismissed as an unreasonable fanboy.) But the products backed up the marketing. If the iPod had been a mediocre product, its iconic dancing silhouettes ads would not have succeeded in selling millions of units. Steve Jobs instilled in Apple's DNA what he once called the intersection of technology and liberal arts: this combination of top-notch execution and emotional appeal.

Steve may be gone, but it's still sunny in Palo Alto.

OVERHEARD AT THE FAC

JUMBO THANKSGIVING HIATUS EDITION

3L: I've been on exchange for too long, I don't recognize anyone! Who's that girl?
3L: A 1L.
3L: How do you know? Were you in orientation?
3L: No, it's obvious, she's wearing too much make-up... Wait until mid-November, they'll all look the same.

1L to another 1L, discussing Amselem: The Constitution isn't like Mommy. You shouldn't go running to it everytime you want to escape something.

Prof [redacted]: He was a classamate... I still haven't figured out how he got into Oxford with those marks. He was not the brightest light in the room.

2L: I don't think I can start reading the news and understand, there's so much that came before!

1L: Lorsqu'il parle, j'ai l'impression qu'un Patronus enchanté se répand dans la classe.

2L: This class might be more interesting if you took on an Oxford accent
Prof.: I'm sorry, it will remain boring.

Prof., taking attendance: Votre nom, monsieur...?

3L: Michael Shortt.
Prof.: Michael... Jordan?

Prof Provost [in reaction to the idea that professors are now responsible for recruiting external thesis examiners]: This new policy makes finding externals a favour from a friend. Over the last decade I've supervised maybe 10 doctoral theses and 50 masters theses... I don't have that many friends! And if I have to ask them to be external examiners pretty soon I won't have any friends at all!

2L: Honestly I think we're the funniest people in the faculty. We should be quoted more in the Overheards!

Prof. Leckey: My opinions are in newspapers and law reviews.

Prof. Muniz-Fraticelli: Presumably, the person you're entering into business with has more money than what they're giving you. Otherwise they're stupid and you shouldn't be entering into business with them.

Prof. Gold: It makes no conceptual sense: if this judge were in my class writing an exam, he would get a low mark.

2L: Could we get a mike for guest speakers? It's sometimes hard to hear with so many people in the room.
Me Lamed: Well that wouldn't be a problem today, would it?

Me Lamed: You are all successful people, but I have bad news for you, you learn most from failure. You are sadly bereft of failures.

Me Lamed: If there's entrapment for the goose, there may be entrapment for the gander, you know what I mean?

Me Lamed: What if the lawyer sleeps with the client? (class laughs) This happens all the time!

Prof. Gold: When you invite someone for dinner, you're really saying, "Come to my place and I won't sue you for trespass."

Prof. Gold: Imagine this room was unowned wasteland—which some of you feel it is sometimes.

Prof. [redacted]: Today's materials are pretty hot.

2L: If the evelator took any longer, I'd be *pregnant*: that's me in *20 years* with my first boyfriend!

ENVOYEZ-NOUS CE QUE VOUS ENTENDEZ !

quid.overheard@gmail.com

ADDENDUM

Last Sunday night, this issue of the *Quid* had all but gone to press when we learned with great sadness of the passing of **Alexandra Dodger**, who graduated from the Faculty in May 2011.

We will honour Alexandra's memory in our next issue, coming out Tuesday, October 25th. For this purpose, the ***Quid* is asking students, professors and alumni who knew Alexandra to send their thoughts and memories to quid.law@mcgill.ca**, subject line "Alexandra". Please pass the message along to those who have graduated. As usual, the deadline is this **Thursday, October 20th, at 5pm**.

Toute l'équipe du *Quid Novi* offre ses condoléances à la famille et aux amis d'Alexandra dans ces moments difficiles.

Amanda, Hélia & Thomas

“I was never much of a Law Journal type... I was more of a *Quid Novi*.”

Hon. Justice [redacted],
McGill Law alumnus.